

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LARRY W. MABRY,

Plaintiff,

v.

AMERIQUEST MORTGAGE COMPANY,
et al.,

Defendants.

Case No. 09-cv-12154

HONORABLE STEPHEN J. MURPHY, III

**ORDER AFFIRMING AND ADOPTING REPORTS AND
RECOMMENDATIONS (docket nos. 44 and 45) AND GRANTING
DEFENDANTS' MOTION TO DISMISS (docket no. 12) AND DEFENDANTS'
MOTION FOR JUDGMENT ON THE PLEADINGS (docket 26)**

This is an action asserting claims under the Fair Debt Collections Practices Act, the Fourteenth Amendment, and a state law claim of Intentional Infliction of Emotional Distress, stemming from foreclosure proceedings on the plaintiff's investment properties located at 514 Williams Street in Kalamazoo, Michigan. Plaintiff has named Ameriquest Mortgage Company, Citi Residential Lending, Inc., Ameriquest Mortgage Securities, Inc., Deutsche Bank National Trust Company as Trustee, American Home Mortgage Servicing, and Potestivo & Associates, P.C. as Defendants. Before the Court are defendant Potestivo & Associates, P.C.'s motion to dismiss or in the alternative for summary judgment, filed on June 23, 2009 (docket no. 12), defendants Ameriquest Mortgage Company and Ameriquest Mortgage Securities, Inc.'s motion for judgment on the pleadings (docket no. 26), and the Reports and Recommendations of Magistrate Judge R. Steven Whalen, filed on February 24, 2010 (docket no. 44) and February 26, 2010 (docket no. 45), respectively. The magistrate judge's reports and recommendations recommended that both motions be granted and that defendants Potestivo & Associates, P.C., Ameriquest Mortgage Company

and Ameriquest Mortgage Securities, Inc., be dismissed with prejudice. The Magistrate Judge also notified the parties that any objections must be filed within fourteen days of service. No party has filed objections to the reports and recommendations.

The Court's standard of review for a magistrate judge's report and recommendation depends upon whether a party files objections. If a party does not object to the report and recommendation, the Court does not need to conduct a review by any standard. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Because neither party filed timely objections to Magistrate Judge Whalen's reports and recommendations, see 28 U.S.C. § 636(B)(1)(c); Fed. R. Civ. P. 6(e), this Court need not and will not conduct a review.

ACCORDINGLY, IT IS HEREBY ORDERED that the Report and Recommendation of February 24, 2010 [docket entry 44] is **ACCEPTED** and **ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED that Potestivo & Associates, P.C.'s motion to dismiss or, in the alternative, for summary judgment [docket entry 12] is **GRANTED**. All claims against Potestivo & Associates, P.C. are **DISMISSED WITH PREJUDICE**.

ACCORDINGLY, IT IS HEREBY ORDERED that the Report and Recommendation dated February 26, 2010 [docket entry 45] is **ACCEPTED** and **ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED that Ameriquest Mortgage Company's and Ameriquest Mortgage Securities, Inc.'s motion for Judgment on the Pleadings [docket entry 26] is **GRANTED**. All claims against Ameriquest Mortgage Company and Ameriquest Mortgage Securities, Inc. are **DISMISSED WITH PREJUDICE**.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: March 19, 2010

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 19, 2010, by electronic and/or ordinary mail.

Alissa Greer
Case Manager